



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/168327

PRELIMINARY RECITALS

Pursuant to a petition filed August 31, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on September 17, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the Kenosha County Human Service Department (the agency) correctly ended the Petitioner's application for benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Coordinator
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On July 17, 2015, the Petitioner called the agency to complete a renewal for FoodShare and BadgerCare benefits. (Exhibit 2)

3. On July 28, 2015, the Petitioner provided the agency with two bi-weekly paystubs, one with a deposit date of July 16, 2015, showing gross income of \$322.83, and one with a deposit date of July 30, 2015, showing gross income of \$306.99. This works out to be:

$$\$322.83 + \$306.99 = \$629.82$$

$$\$629.82 \div 2 = \$314.91 \text{ average income per check}$$

$$\$314.91 \times 2.15 \text{ average bi-weekly pay periods per month} = \$677.06 \text{ average monthly earned income}$$

(Exhibit 3)

4. Petitioner's husband receives \$1095.00 per month in Social Security Disability Income and Petitioner's child receives \$547.00 per month in Social Security Survivor's benefits. (Exhibit 3)
5. Petitioner's husband pays \$104.90 per month for Medicare part B premiums and he incurs \$19.20 in out-of-pocket expenses for his prescriptions. (Exhibit 5)
6. The Petitioner pays \$725.00 per month in rent, which does not include heat. (Testimony of Petitioner; Exhibit 4)
7. Petitioner's household consists of three people. (Exhibits 4 and 6)
8. On August 31, 2015, the agency sent the Petitioner another notice advising her that she would not receive FoodShare benefits, as of September 1, 2015, because she was over the program limit. (Exhibit 6)
9. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on August 31, 2015. (Exhibit 1)

DISCUSSION

Once a household passes the gross income test, the following deductions are applied in determining the household's net income:

- (1) a standard deduction –

This is \$155 per month for a household of 1-3 people, 7 *CFR* § 273.9(d)(1):

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR* § 273.9(d)(2);

For Petitioner this was: $\$677.06 \times 20\% = \135.41

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 *CFR* § 273.9(d)(3);

Petitioner's husband's medical expenses total: $\$104.90 + \$19.20 = \$124.10$

The excess expense is then: $\$124.10 - \$35.00 = \$89.10$

- (4) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and

Petitioner did not claim this expense.

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5).

The standard utility allowances are as follows:

HSUA – Heating Standard Utility Allowance	\$458
LUA – Limited Utility Allowance	\$293
EUA – Electric Utility Allowance	\$119
WUA-Water and Sewer Utility Allowance	\$78
FUA- Cooking Fuel Allowance	\$46
PUA- Phone Utility Allowance	\$30
TUA – Garbage and Trash Utility Allowance	\$20

There is a cap of \$504.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

Petitioner's total gross household income works out to be as follows:

\$677.06 Earned Income
 +\$547.00 Social Security Survivors Income
 +\$1095.00 SSDI

 \$2319.06

Applying the applicable deductions to Petitioner's income we have the following net income calculation:

Gross Income	\$2319.06	Rent	\$725.00
Earned Income Deduction	-\$135.41		
Standard Deduction	-\$155.00		
Medical Expenses exceeding \$35	-\$89.10	HSU	+\$446.00
Dependent Care Expenses		-50% net income	-\$969.78
		<u>before shelter deduction</u>	
Net Income before shelter deduction	\$1939.55	Excess Shelter Expense: \$201.22	
Excess Shelter Expense	- \$201.22		
Net Income	\$1738.33		

Households of three, with a net income of \$1738.33 are not eligible for Foodshare benefits; they are over the program income limit. *FSH §8.1.2*

The Petitioner asserts that her husband incurs additional out-of-pocket medical expenses. If that is the case, the Petitioner should reapply for benefits and provide the agency with verification of those out-of-pocket expenses.

CONCLUSIONS OF LAW

The agency correctly ended the Petitioner's FoodShare benefits, effective September 1, 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 21st day of October, 2015.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 21, 2015.

Kenosha County Human Service Department
Division of Health Care Access and Accountability